

**ZONING BOARD OF APPEALS**  
**MEETING MINUTES**

**August 12, 2014**

**4:00 P.M.**

**CALL TO ORDER:** Mr. John Stetler, Chairperson called meeting to order at 4:00 P.M.

**ATTENDANCE:**

**Members Present:** Deland Davis                      Carlyle Sims  
Greg Dunn    Becky Squires  
James Moreno                                        John Stetler

**Members Excused:** Rick Barnes

**Staff Present:** Marcel Stoetzel, Assistant City Attorney  
Christine Zuzga, Planning Supervisor  
Glenn Perian, Senior Planner  
Leona Parrish, Admin. Assistant, Planning Dept.

**ADDITIONS OR DELETIONS TO THE AGENDA:** It was suggested that item “Old Business” regarding By-Law Review on the agenda be moved to follow “New Business” so the applicant for 5 Terrace Avenue may be presented first and not have to wait.

**CORRESPONDANCE:** Mr. Glenn Perian, Senior Planner stated he received an email on July 21, 2014 from Ms. Sharon Heisler stating her resignation as an alternate member of the Zoning Board of Appeals due to personal reasons.

*Mr. John Stetler, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be read and then open the public hearing. At the public hearing persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. Mr. Stetler stated if denied the petitioner may appeal to the Circuit Court.*

**NEW BUSINESS:**

**A) Zoning Use Variance Appeal #Z-02-14:**

Petition from Mr. Gregory Lightfoot, 5 Terrace Avenue, Battle Creek, MI 49015. Request is for a Dimensional Variance to allow an accessory building to be built 1.5 ft. from the side property line; closer than 10 ft. from another building; and to build in a secondary front-yard on a corner lot for property located at: 5 Terrace Avenue (Parcel #3720-00-014-0); application is requested pursuant to Planning and Zoning Code, Chapter 1286.05 (a) (c-d).

Mr. Glenn Perian, Senior Planner, Planning Department outlined the report stating appeal #Z-02-14 is a petition from Mr. Gregory Lightfoot seeking approval of a Dimensional Variance to construct a 12 ft. x 15 ft. accessory building one-and a half feet from the front property line fronting Roe Street in an R-2 zoning district. The applicant would also like to build the proposed building 1.5 ft. from the existing

12 x 18 garage. The existing lot has frontages on three streets and the ordinance requires a 25 ft. setback for structures along each of those street frontages. Based on the application submitted, Planning Staff is recommending denial of appeal #Z-02-14 based on the following findings and those listed in the staff report.

- A) Staff finds that practical difficulty does not exist as applied to this specific building project. There is already a garage on the property and we think that to build 1.5 ft. from a street frontage is unreasonable.
- B) Staff does not believe that the practical difficulty is exceptional and peculiar to the subject parcel and the conditions associated with the property generally exist throughout the city on other corner lots. There is already a 12 x 18 foot garage on the property which could be used for storage of personal property.
- C) Staff believes that if the variance is granted the intent of the ordinance will be altered and we are not convinced that the subject property is unique in any way for other corner lots located in the City.

Mr. Perian stated for these reasons and those listed in the staff report, staff is recommending denial of appeal Z-02-14

Mr. Gregory Lightfoot (owner), 5 Terrace Avenue, stated he believes this is a very unique parcel and would like to build this building to store yard items, motorcycle, grille, etc. and be able to use his current garage for his car. Stated there have been numerous thefts in his neighborhood and noted that his current garage is 16 x 22 in size and not 12 x 18. Said he has lived in Battle Creek since 1975 and at this location for the past seven years and have outgrown his space. Mr. Lightfoot said he has been restoring his home and has the material and tools on his back porch and need to put them inside to do the project and would like use his current garage for his car.

Mr. Greg Dunn asked Mr. Lightfoot if he was doing the work himself and not using a contractor and if a permit was pulled for new structure. Mr. Lightfoot stated he did not use a contractor and was doing the work himself and was not aware he needed a permit for a 160 sq. ft. structure. Mr. Lightfoot stated it is not 1.5 ft. from the road as there is a hill in the rear and not at the edge of a curve; said he does not believe the road would be widened in the future and does not understand why it would not be allowed.

*Mr. John Stetler asked if there were any others here to speak for or against this variance, seeing none he called this public hearing to a close and would entertain a motion.*

**MOTION WAS MADE BY MS. BECKY SQUIRES TO APPROVE THE DIMENSIONAL VARIANCE REQUEST APPEAL #Z-02-14 FOR 5 TERRACE AVENUE TO ALLOW AN ACCESSORY BUILDING TO BE BUILT 1.5 FT. FROM A SIDE PROPERTY LINE; CLOSER THAN 10 FT. FROM ANOTHER BUILDING AND TO BUILD IN A SECONDARY FRONT-YARD ON A CORNER LOT FOR PROPERTY ZONED "R-2 TWO FAMILY RESIDENTIAL" AS PRESENTED; SUPPORTED BY MR. CARLYLE SIMS.**

**Discussion:**

Mr. James Moreno asked Mr. Perian about the garage dimensions being different than what the owner stated. Mr. Perian stated the City Assessors office show the size of record to be 12 ft. x 18 ft.

Mr. Greg Dunn asked Mr. Perian if he could build it to the side of his lot. Mr. Perian stated he would still be required to get a zoning permit as it is less than 200 sq. ft. and would not require a building permit and require approval of a front-yard variance for the placement.

Mr. Deland Davis stated the variance ordinance is intent to keep from encroachment to the street and this would be a concern form him.

Ms. Becky Squires asked Mr. Glenn Perian if because of the uniqueness of the lot; if they had approved variances similar to this one in the past. Mr. Glenn Perian stated he had not recalled one where they already had a garage and the board allowed another building. Said based on the lot setting the owner would still need a variance but might be able to place elsewhere on the lot with that variance.

Mr. Carlyle Sims asked if it were not a permanent structure could he still put it there. Mr. Perian stated yes, but would still need a variance.

Mr. Greg Dunn asked if it were a temporary building could he place it somewhere else on the lot. Mr. Perian stated the required setback is not there for the rear-yard (Roe St.) off the road right-of-way and from Terrace /Burnham road right-of-way would need a variance and he is not sure if he would meet the 25 ft. setback.

Mr. Deland Davis asked if he would be required to have a 10 ft. space between buildings. Mr. Glenn Perian stated he is not sure of the building code requirements.

Mr. Greg Dunn and Mr. James Moreno stated they were voting no based on the findings in the staff report.

**MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; NONE IN FAVOR; ALL OPPOSED, MOTION FAILED.**

Mr. Lightfoot stated he feels he has a unique lot and did not want to put the structure in front of his window and is disappointed; thought what he was doing was correct.

Chairperson John Stetler stated the appeal has been denied and they may appeal to Circuit Court and thanked Mr. Lightfoot for coming.

### **OLD BUSINESS:**

#### **Zoning Board of Appeals – By-Law Review Article VIII, Section 7**

Mr. Glenn Perian referenced page 9 of 9, Section 7, Article VIII of document provided in today's meeting packet; said the original language has been stricken and new language written. Stated no vote will be required at today's meeting as this is the introduction of the new ordinance and that it will be added to the next meeting agenda for approval.

*Mr. John Stetler asked if there was any further discussion, seeing none he would entertain a motion.*

**MOTION WAS MADE BY MR. GREG DUNN TO INTRODUCE THE REVISION TO ARTICLE VIII, SECTION 7 OF THE ZONING BOARD OF APPEALS BY-LAWS AS PRESENTED.**

**Discussion:**

Mr. Greg Dunn thinks a person should be allowed to bring back an appeal within 12 months; but does see how the board feels based on the changes agreed upon by the group.

Mr. Deland Davis noted it meets his concerns and feels it was fine as it was previously before being amended.

Mr. John Stetler agrees it is what has been decided upon by the board.

**MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED**

**APPROVAL OF MINUTES:**

**MOTION: WAS MADE BY MR. JAMES MORENO TO APPROVE THE JULY 8, 2014 ZONING BOARD OF APPEALS MINUTES AS PRESENTED; SUPPORTED BY MR. CARLYLE SIMS.**

**ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED –MINUTES APPROVED.**

**COMMENTS BY THE PUBLIC:**

Mr. Karl J. Bell, 244 Calhoun Street, came forward and asked regarding his appeal that was denied from last months meeting and if there had been a tie vote for his appeal; what would have been the outcome. Mr. Glenn Perian stated for a dimensional variance you need to have 4 votes in favor no matter the number of members voting.

**COMMENTS BY THE MEMBERS / STAFF:**

Mr. Carlyle Sims thanked the staff members for the meeting reports as they are helpful in making a decision.

Mr. John Stetler commented regarding the by-laws that “insurable value” needs to be defined in the ordinance as it is not described anywhere else. Mr. Marcel Stoetzel said they can review the definition in the by-laws. Mr. Glenn Perian stated regarding non-conforming properties; everyone agrees it can better be defined. Ms. Christine Zuzga stated they can review a definition for the city ordinance.

Mr. Greg Dunn wanted to thank Ms. Sharon Heisler for her time on the Zoning Board and asked that it be acknowledged to her. It was stated a letter of thanks would be mailed to her.

**ADJOURNMENT:** Meeting was adjourned at 4:36 P.M.

Submitted by: Leona A. Parrish, Administrative Assistant, Planning Department